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**FISCAL IMPACT STATEMENT**

**LS 6230**  
**BILL NUMBER: HB 1011**

**NOTE PREPARED: Dec 6, 2011**  
**BILL AMENDED:**

**SUBJECT:** Various Corrections Matters.

**FIRST AUTHOR:** Rep. Foley  
**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED: X GENERAL  
DEDICATED  
FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- A. *Probation Improvement Fund* – It establishes the Probation Improvement Fund administered by the Judicial Conference to award grants based on the recommendation by the Department of Correction to: (1) county probation departments that supervise persons convicted of a felony to promote the adoption of certain best practices to improve probation administration and services and reduce probation revocations; and (2) counties that supervise persons who have been convicted of a felony to consolidate and improve the efficiency of probation administration and services and community corrections programs. It requires the clerk of a circuit court to distribute monthly to the State Auditor for deposit in the Probation Improvement Fund 100% of the county offender deferral fee and the pretrial diversion fee for infraction or ordinance violations.
- B. *Forensic Addiction Fund* – It creates the Forensic Addiction Fund to create a funding source for grants to probation departments and community corrections programs to increase substance abuse treatment access for individuals on probation or in a community corrections program. It requires the Judicial Conference of Indiana to administer the fund. It creates the county offender deferral fee and the pretrial diversion fee for infraction or ordinance violations.
- C. *Credit-Restricted Felons* – It requires a sentencing court to inform the Department of Correction if the person sentenced is a credit-restricted felon. It requires a court that determines that a person sentenced is a credit-restricted felon to state in the sentencing order and the abstract of judgment that the person is a credit-restricted felon.
- D. *Swift and Certain Sanctions* – It requires the Judicial Conference to adopt rules concerning swift and certain sanctions that a probation officer may use in supervising persons on probation. It provides procedures for a person on probation to be sanctioned by a probation officer.

- E. *Credit Time Earned by Certain Offenders* – It requires that credit time earned by certain offenders shall be reduced to the extent that application of the credit time would result in postconviction release or a community transition program assignment in less than 45 days after the person earns the credit time.
- F. *Automated Victim Notification System* – It requires the Department of Correction (Department) to: (1) establish an automated victim notification system; and (2) notify a registered crime victim of certain changes affecting the committed offender who committed the crime against the victim. It specifies when the Department shall make certain victim notifications.
- G. *Sentencing Order and Abstract of Judgment* – It provides that if a court imposes a felony sentence that involves a commitment to the Department, the court shall state certain information in the sentencing order and abstract of judgment.
- H. *Probation Violations* – It restricts a person who was not admitted to bail for violating a condition of probation from being incarcerated in jail for more than 15 days.

(The introduced version of this bill was prepared by the Criminal Code Evaluation Commission.)

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** *Probation Improvement Fund* – The Indiana Judicial Conference would administer the nonreverting Probation Improvement Fund, and the Department of Correction (DOC) can make recommendations to the Indiana Judicial Conference for grant awards. The expenses for administering this fund shall be paid from the fund. The Judicial Conference is to award the grant contingent on the ability of the county probation department to demonstrate a minimal level of coordination with other offender supervision agencies operating in the same county, including community corrections programs, parole authorities, and other probation agencies.

*Forensic Addiction Fund* – Sources of funds for the new nonreverting Forensic Addiction Fund would include appropriations from the General Assembly and donations, gifts, and money received from any other source, including transfers from other funds or accounts. There is no appropriation included in this bill.

The Indiana Judicial Center would be charged with distributing the money in this fund. The Judicial Center would determine the amount of the grant awarded to a program and adopt rules to implement this new fund.

Mental health and substance abuse counseling services provided by these grants must be contracted for with a certified mental health or addiction provider as determined by the Division of Mental Health and Addiction.

*Automated Victim Notification System* – DOC staff report that this can be implemented within its existing level of resources.

*Credit Time Earned by Certain Offenders* – This provision could slightly reduce the need for prison beds. Under current law, any offender who receives credit time that would make them immediately eligible for release from prison, must spend an additional 45 days in prison before being released. This bill would restrict this 45-day wait to offenders who have been sentenced for violent crimes (IC 35-42), incest, and promoting prostitution.

DOC officials indicate that this bill especially could affect shorter-term offenders who may enroll in a substance abuse class and not be able to receive full credit to be released early.

*Swift and Certain Sanctions* – The Indiana Judicial Center would be charged with prescribing minimum standards for a schedule of probation incentives and violation sanctions and qualifications for probation officers to administer probation violation sanctions. The Center staff would likely conduct a series of public hearings prior to adopting these standards.

**Explanation of State Revenues:** *Probation Improvement Fund* – The county offender deferral fee and the pretrial diversion fee are estimated to result in added revenues of \$1.9 M annually, which would be deposited into the Probation Improvement Fund. This fund would be administered by the Indiana Judicial Conference. (The revenue estimate is based on five years of reported data from the Indiana Supreme Court.)

<b>Added Revenue from Proposed Deferral Fees</b>					
	<u>Estimated Cases Subject to Fee</u>		<u>New Fee</u>		<u>Added Revenue</u>
Misdemeanors	21,160	x	\$30	=	\$634,800
Infractions	73,490	x	15	=	\$1,102,350
Ordinance Violations	10,987	x	15	=	<u>\$164,805</u>
Totals					<u>\$1,901,955</u>

**Background Information** – The following tables serve as the basis for estimating the revenue that would be generated by these new fees. The tables were developed from data supplied by the Division of State Court Administration and are available online.

<b>Misdemeanors Deferred by Calendar Year</b>						
	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>5-Year Average</u>
Trial Courts	13,552	15,217	16,020	15,494	15,486	15,154
City and Town Courts	5,653	6,241	6,119	6,234	5,784	<u>6,006</u>
						<u>21,160</u>
Counties with Trial Courts Deferring Misdemeanors	66	73	70	74	75	
Counties with City/town Courts Deferring Misdemeanors	18	20	17	19	18	

<b>Infractions Deferred by Calendar Year</b>						
	<u><b>2006</b></u>	<u><b>2007</b></u>	<u><b>2008</b></u>	<u><b>2009</b></u>	<u><b>2010</b></u>	<u><b>5-Year Average</b></u>
Trial Courts	41,274	48,195	44,630	63,408	60,026	51,507
City and Town Courts	20,742	21,981	23,267	21,171	22,754	<u>21,983</u>
						<u>73,490</u>
Counties with Trial Courts Deferring Infractions	59	68	63	66	71	
Counties with Municipal Courts Deferring Infractions	29	31	28	31	29	

<b>Ordinance Violations Deferred by Calendar Year</b>						
	<u><b>2006</b></u>	<u><b>2007</b></u>	<u><b>2008</b></u>	<u><b>2009</b></u>	<u><b>2010</b></u>	<u><b>5-Year Average</b></u>
Trial Courts	2,459	3,145	4,263	9,851	8,345	5,613
City and Town Courts	3,613	4,419	5,161	6,283	7,394	<u>5,374</u>
						10,987
Counties with Trial Courts Deferring Ordinance Violations	8	12	11	13	13	
Counties with Municipal Courts Deferring Ordinance Violations	13	15	15	15	15	

**Explanation of Local Expenditures:** *Probation Improvement Fund* – County probation departments that supervise felony offenders would be eligible to receive money from the Probation Improvement Fund. Departments would have to submit an application on a form that is prescribed by the Indiana Judicial Conference.

*Credit-Restricted Felons* – Courts should be able to specify that an offender is a credit-restricted felon in the sentencing order and the abstract of judgment with current resources.

Credit-restricted felons have been committed to DOC for one of the following:

- Child molesting involving sexual intercourse or deviate sexual conduct if the offense is committed by a person at least 21 years of age and the victim is less than 12 years of age; or child molesting resulting in serious bodily injury or death; or
- Murder if the person killed the victim while committing or attempting to commit child molesting; the victim was the victim of a sex crime for which the person was convicted; or the victim of the murder was listed by the state or known by the person to be a witness against the person in a prosecution for a sex crime and the person committed the murder with the intent to prevent the person from testifying.

Credit-restricted felons were committed from 34 counties between 2009 and 2011

<b>Credit-Restricted Felons Committed to DOC by CY</b>			
<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>2011</u>
5	19	41	40

Credit-restricted felons receive one day credit off of their time in prison for each 6 days they serve with good conduct.

*Sentencing Orders and Abstract of Judgment* – Courts in 88 of Indiana’s 92 counties will need to complete 10 or fewer of these sentencing orders each week, based on commitments to DOC in CY 2010. Depending on the type of office automation available, most counties should be able to complete this requirement with existing resources.

LSA examined the number of offenders committed to DOC in CY 2010 by county.

<b>Average Number of Offenders Committed to DOC each Week in CY 2010</b>	<b>Counties Committing</b>
Fewer than 5	81
Between 5 and 10	7
More than 10	3
82 per week	Marion County

*Probation Violations* – Some counties will have to process probation violations at a faster rate rather than allowing probationers who violate their court orders to remain in jail for longer than 15 days.

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of Correction; Indiana Judicial Conference; Division of Mental Health and Addiction.

**Local Agencies Affected:** Trial courts operating probation offices; Community correction agencies.

**Information Sources:** Division of State Court Administration; Department of Correction.

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